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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,104	01/29/2002	David L. Panak	5190-00107	6419
7590	09/28/2004		EXAMINER	
Jeffrey C. Hood Meyerton, Hood, Kivlin, Kowert & Goetzl P.C. P.O. Box 398 Austin, TX 78767-0398			DUVERNE, JEAN F	
			ART UNIT	PAPER NUMBER
			2839	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/060,104	PANAK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jean F. Duverne	2839	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7, 9 and 14-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 34 is/are allowed.
- 6) Claim(s) 1-6, 9, 14-25 and 27-33 is/are rejected.
- 7) Claim(s) 26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/12/04 & 6/2/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

In view of the emergence of the new art, the examiner has decided to issue a second non-final office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, and 9, 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Brien (US patent 4,896,939 ).

O'Brien's device discloses a communication cable comprising a first optical fiber (28); a first and second intermediate layer (26,24) surrounding the first optical fiber (28) to connect an optical device such as light beam, or optical receiver; and a first electrically insulating jacket (20) surrounding the first and second intermediate layers (26, 24); wherein the first intermediate layer includes a first electrical conductor at 26 to be connected to an electrical device such as power supply, the first layer having a strengthening material (see col. 3, lines 48-67), crimp sleeve (12) to slip up over the rear portion to crimp the first collection of metallic strands onto the rear portion collection of metallic ferrule and the use of the metal ferrule with nuts to hold the fiber, coupling nut or rings (8, 14B, 14A)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 21-25, 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien (US patent 4,896,939) in view of Gareis (US005557698A ).

In regard to claim 7, O'Brien's device discloses the aforementioned limitations, but fails to disclose the use of the zipcord or ripcord. Gareis' device discloses the metallic breaded conductors (37,38), and the ripcord. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the zipcord or ripcord such as the one discloses in Gareis' device in order to improve the interconnection features in O'Brien's device.

In regard to claim 21-25, 27-33, O'Brien's device discloses the aforementioned limitations, but fails to disclose the cable connection to different electrical optical devices with different functional limitations. It would have been an obvious variation to have the cable connected to different optical and optical devives with different limitations to meet the system design and requirement. The functional recitation of different optical and electronic devices connected to the cable has not been given patentable weight because it is in a narrative form. In order to be given patentable weight, a functional recitation must be expressed as

a "means" for performing the specified function, as set forth in 35 USC § 112, 6<sup>th</sup> paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language, *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

### ***Conclusion***

Claim 34 is allowed. Prior art fails to disclose the combination features the light source with the controlling system detecting various changes with the rest of the claims limitations.

Claim 6 is being objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean F. Duverne whose telephone number is (571) 272-2091. The examiner can normally be reached on 9:00-7:30, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TC Patel can be reached on (571) 272-2098. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2839

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JFD

08/23/2004



Jean Frantz Duverne  
Primary Examiner  
Art Unit 2839